

2013 DRAFTING REQUEST

Bill

Received:	11/21/2013	Received By:	pgrant
Wanted:	As time permits	Same as LRB:	
For:	Thomas Larson (608) 266-1194	By/Representing:	Matt Pulda
May Contact:		Drafter:	pgrant
Subject:	Education - school boards	Addl. Drafters:	
		Extra Copies:	TKK FFK

Submit via email: **YES**
 Requester's email: **Rep.Larson@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Biometric data; use of device to assess physiological or emotional state

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 11/21/2013	kfollett 11/21/2013					
/1	pgrant 12/4/2013	kfollett 12/5/2013	jfrantze 11/21/2013		sbasford 11/21/2013	mbarman 12/3/2013	
/2	pgrant 12/17/2013	kfollett 12/18/2013	jfrantze 12/5/2013		lparisi 12/5/2013	lparisi 12/5/2013	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/3

rschluet
12/18/2013

srose
12/18/2013

srose
12/18/2013

FE Sent For:

NOT
NEEDED

<END>

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12/18/13 JS

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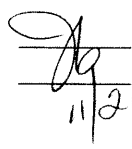
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/?	pgrant	11/5f 11/21	11/5f 11/21	 11/21			

FE Sent For:

<END>

Grant, Peter

From: Pulda, Matt
Sent: Wednesday, November 20, 2013 10:54 AM
To: Grant, Peter
Cc: Sappenfield, Anne
Subject: Drafting request (biometric collection in schools)
Attachments: LegCouncilSensorsMemo.pdf

Hi, Peter,

Representative Larson would like a bill drafted that would ~~address the~~ ^{we} prohibit practices described in the attached Leg Council memo – blood pressure cuffs, pressure sensors, and posture chairs, specifically, or any other type of biometric data collection – unless indicated by a medical or therapeutic need or set out in a disabled student's individualized education program (with the permission of a parent or guardian), or with the permission of a parent or guardian if there is no medical/therapeutic need or IEP. To the extent that current law already imposes restrictions on school districts' use of such practices and any information thus collected, we want to keep those restrictions. In general, we want to fill the loophole potentially created by the fact that "there is no specific prohibition on these practices".

Please let me know if you have any questions. You also have our permission to contact Anne Sappenfield directly.

Thanks!

Matt Pulda
Research Assistant/Committee Clerk
Office of State Rep. Tom Larson
Assembly Committee on Family Law
(608) 266-1194



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE DEAN KNUDSON

FROM: Anne Sappenfield, Senior Staff Attorney

RE: Use of Blood Pressure Cuffs, Pressure Sensors, and Posture Chairs Under the
Common Core State Standards

DATE: October 16, 2013

You have asked whether the Common Core State Standards (CCSS) require or authorize schools to use blood pressure cuffs, pressure sensors, or posture chairs as part of instruction or assessment of pupils or to collect student data. You have also asked if any schools in Wisconsin have implemented such practices and whether such practices would raise legal concerns. The CCSS does not require or authorize the use of blood pressure cuffs, pressure sensors, or posture chairs as part of instruction or assessment of pupils or to collect student data. I am not aware of any Wisconsin schools using such practices as part of instruction or assessment or to collect student data.

BACKGROUND ON THE CCSS

The CCSS set benchmarks for student knowledge and skills for each grade level from Kindergarten through 12th grade. They do not set forth how the standards are met or the way students are assessed to determine if they have met the benchmarks. As an example, one of the 6th grade English language arts standards is to write arguments to support claims with clear reasons and relevant evidence. As part of this standard, a student is expected to:

- Introduce claims and organize the reasons and evidence clearly.
- Support claims with clear reasons and relevant evidence, using credible sources and demonstrating an understanding of the topic or text.
- Use words, phrases, and clauses to clarify the relationships among claims and reasons.
- Establish and maintain a formal style.

- Provide a concluding statement or section that follows from the argument presented.

One of the 6th grade CCSS for mathematics is as follows:

Find the area of right triangles, other triangles, special quadrilaterals, and polygons by composing into rectangles or decomposing into triangles and other shapes; apply these techniques in the context of solving real-world and mathematical problems.

DISCUSSION

School districts are not specifically authorized to use blood pressure cuffs or posture chairs unless indicated by a medical or therapeutic need. For a child with a disability, use of such practices would be set forth in the student's individualized education program. [s. 115.787, Stats.] In addition, there is no specific authorization to use pressure sensors. However, there is no specific prohibition on these practices.

If a school board were to implement such a practice, there are some legal considerations.

First, certain of these practices may involve physical restraint of a student. Under current law, a student may be physically restrained only if all of the following conditions are met:

- The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.
- There are no medical contraindications to its use.
- The degree of force used and the duration of the physical restraint do not exceed the degree and duration that are reasonable and necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.
- None of the following maneuvers or techniques are used:
 - Those that do not give adequate attention and care to protecting the pupil's head.
 - Those that cause chest compression by placing pressure or weight on the pupil's chest, lungs, sternum, diaphragm, back, or abdomen.
 - Those that place pressure or weight on the pupil's neck or throat, on an artery, or on the back of the pupil's head or neck, or that otherwise obstruct the pupil's circulation or breathing.
- It does not constitute corporal punishment, as defined under current law.

- The school employee does not use a mechanical or chemical restraint on the pupil. The statute specifies that the use of supportive equipment to properly align a pupil's body, assist a pupil to maintain balance, or assist a pupil's mobility, under the direction and oversight of appropriate medical or therapeutic staff, does not constitute the use of a mechanical restraint.

[s. 118.305 (3), Stats.]

Second, a school district would have to carefully consider the disclosure of any data collected from monitoring blood pressure or other vital signs. Under state and federal laws, student information is confidential and may be disclosed only as permitted under those laws. [s. 118.125, Stats., and 34 C.F.R. Part 99.] If a health care professional is involved in any of these practices, any records would also be considered confidential health care records. [s. 146.82, Stats.]

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

AS:ksm

Date (time)
needed

Monday

LRB - 3694 / 1

PE: gf:

BILL

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: *prohibiting the collection of a pupil's biometric data and the use of any device to assess a pupil's physiological or emotional state.*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

(attached)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

SEC. # CR, 118.125 (8)

118.125 (8) ⁽³⁾ BIOMETRIC DATA. No school

board may collect biometric data from

a pupil, or use any device or

mechanism to assess a pupil's

physiological or emotional state,

unless required by the pupil's

individualized education program under

s- 115.787[✓] or the pupil's parent or

guardian, consents in writing.

(End)

Analysis

This bill prohibits a school board from collecting any biometric data from a pupil, or from using any device or mechanism to assess a pupil's physiological or emotional state, unless required by the pupil's individualized education program or the pupil's parent or guardian consents in writing. Examples of biometric technologies are fingerprint identification, retina scanning, and hand or palm geometry.

Barman, Mike

From: Pulda, Matt
Sent: Tuesday, December 03, 2013 10:55 AM
To: LRB.Legal
Subject: Draft Review: LRB -3694/1 Topic: Biometric data; use of device to assess physiological or emotional state

Please Jacket LRB -3694/1 for the ASSEMBLY.

12/4/13

TC of Matt & Rep. Larson -
delete lang re IEP.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3694/1
PG:kjf:jf

Other

DN

2013 BILL

Regen

- 1 AN ACT *to create* 118.125 (8) of the statutes; **relating to:** prohibiting the
2 collection of a pupil's biometric data and the use of any device to assess a pupil's
3 physiological or emotional state.

Analysis by the Legislative Reference Bureau

This bill prohibits a school board from collecting any biometric data from a pupil, or from using any device or mechanism to assess a pupil's physiological or emotional state, unless ~~required by the pupil's individualized education program or~~ the pupil's parent or guardian consents in writing. Examples of biometric technologies are fingerprint identification, retinal scanning, and hand or palm geometry.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 118.125 (8) of the statutes is created to read: ✓
5 118.125 (8) BIOMETRIC DATA. No school board may collect biometric data from
6 a pupil, or use any device or mechanism to assess a pupil's physiological or emotional

BILL

SECTION 1

1 state, unless ~~required by the pupil's individualized education program under s~~
2 ~~115.787~~ or the pupil's parent or guardian consents in writing.

3 (END)



STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Matt 3694/2

6-1194

add
enforcement mechanism

see 3165B

~~proposed law~~
~~see 3165B~~



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3694/2
PG:kjf:jf

500h

3

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7 state, unless the pupil's parent or guardian consents in writing.

157

8 (END)

BILL

2. The data-sharing agreement under subd. 1. prohibits the personal identification of any person by individuals other than authorized representatives of the recipient who have legitimate interests in the information.

3. The student, if an adult, or the student's parent or guardian, if the student is a minor, consents to the disclosure in writing.

SECTION 7. 115.297 (4) (d) of the statutes is created to read:

115.297 (4) (d) An agency shall maintain a written record of all disclosures of personally identifiable student data made under this section.

~~SECTION 8. 115.297 (7) of the statutes is created to read.~~

~~115.297 (7) ENFORCEMENT.~~ The attorney general or any district attorney may bring an action in circuit court for the enforcement of this ^{subsection} ~~section~~, including an action to restrain by temporary or permanent injunction any violation of this ~~section~~ ^{subsection}.

~~SECTION 9. 115.30 (1) of the statutes is amended to read.~~

115.30 (1) The department shall prepare for the use of school officers suitable forms for making reports, and suitable outlines as aids in conducting school meetings. With the exception of changes due to statute or rule revision, the department shall give school districts a one-year advance notice of any changes to be made to the forms and reports. ~~School~~ Except as provided in s. 115.28 (12) (a) 3., school district officers and employees shall maintain a uniform recording of accounting as prescribed by the department and make such reports to the department as will enable it to distribute state school fund appropriations and state educational appropriations to the schools and persons entitled thereto, and to properly discharge the other duties of the department.

SECTION 10. 115.30 (2) of the statutes is amended to read:

(A)

12/7/94 The bill authorizes the
attorney general or any district attorney
to bring an action in circuit court
to enforce ~~this~~^{the} provision described above.